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Name

Ineke Sweeney

Signature

*Ineke Sweeney*

Case 7995

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of :  
PETER W. HAMILTON, ET AL. : Group Art Unit 1772  
Serial No. 09/532,576 : Examiner A. A. Chevalier  
Filed March 22, 2000 : Confirmation No.: 8660  
For HIGH BOND STRENGTH, :  
REPOSITIONABLE ADHERENT  
SHEET

**PETITION UNDER 37 CFR 1.181 TO  
WITHDRAW THE EXAMINER'S HOLDING OF ABANDONMENT**

Commissioner for Patents  
Washington, D.C. 20231  
Dear Sir:

The Commissioner is hereby petitioned under 37 CFR 1.181 to withdraw the Examiner's holding of abandonment of the above-identified case for an alleged failure to timely respond to the Office Action mailed January 29, 2002. Applicants believe that there is no fee required with the filing of this petition; however, the Commissioner is hereby authorized to charge payment of any fees associated with this communication, including fees required to make any additional copies of this petition, to Deposit Account No. 16-2480 in the name of The Procter & Gamble Company therefor.

**REMARKS**

In regards to the above-identified Application, Applicants received a Notice of Abandonment mailed by the PTO on August 12, 2002 (copy enclosed) stating that this Application is abandoned in view of Applicants' failure to timely file a response within the statutory period of six months from the mailing date of the Office Action. Applicants submit that the Examiner's holding of abandonment is erroneous for the following reasons:

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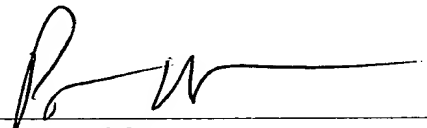
1. On February 4, 2002, Applicants received a non-final Office Action mailed by the PTO on January 29, 2002 (copy enclosed).

2. On February 19, 2002, Applicants' attorney filed a proper response to said Office Action. The response was sent via facsimile to the Examiner's attention at Technical Center 1700 (copy enclosed). The Auto-Reply Facsimile Transmission confirmation sheet (copy enclosed) generated by the PTO indicates that 5 pages (including the cover page), which constituted Applicants' response, were received by the PTO on February 19, 2002 at 3:09 p.m., EST.

3. Applicants have timely responded to all previous Office Actions regarding the above-identified Application and have no history of failure to prosecute the above-identified Application, as indicated by a review of Applicants' file record (copy enclosed).

In view of the foregoing remarks, Applicants seek favorable action by the Commissioner to reverse the Examiner's holding of abandonment of the above-identified Application. Accordingly, Applicants respectfully request that the response to the Office Action be viewed as having been filed in a timely fashion and that the processing of the Application to issuance be continued.

Respectfully submitted,

By   
Peter D. Meyer  
Attorney for Applicants  
Registration No. 47,792  
(513) 634-9359

August 26, 2002

Customer No. 27752



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,576	08/22/2000	Peter W. Hamilton	7995	8660

27752 7590 08/12/2002

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT

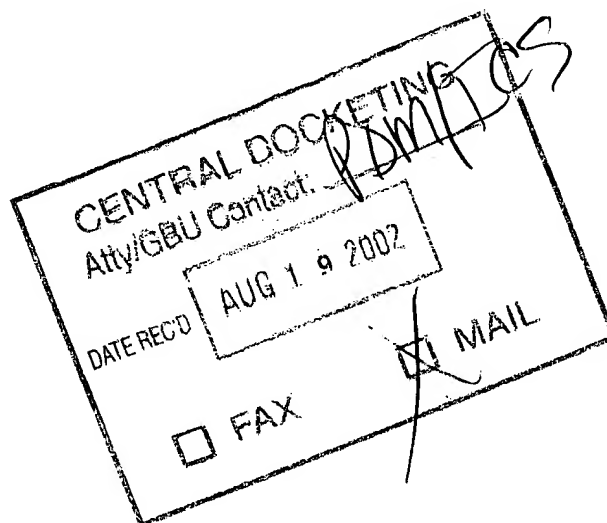
PAPER NUMBER

1772

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DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



RECEIVED

AUG 23 2002

PATENT DIVISION



# Notice of Abandonment

Application No.

09/532,576

Examiner

Alicia Chevalier

Applicant(s)

HAMILTON ET AL.

Art Unit

1772

AS=7

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 January 2002.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER

1772

8/9/02

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,576	03/22/2000	Peter W. Hamilton	7995	8660

27752 7590 08/12/2002

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INTELLECTUAL PROPERTY DIVISION  
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EXAMINER

CHEVALIER, ALICIA ANN

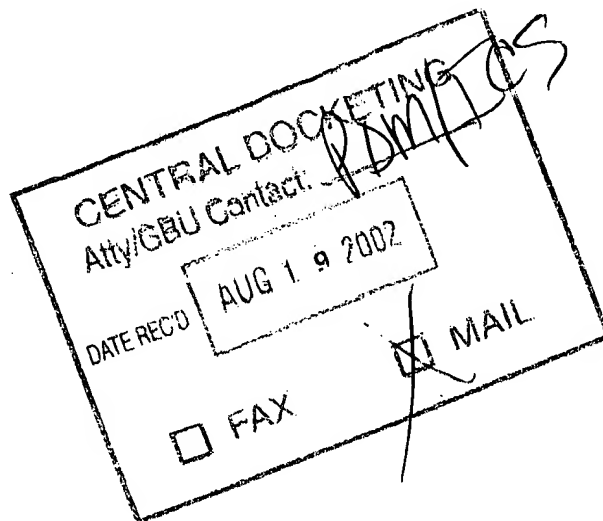
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PATENT DIVISION



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09/532,576

Examiner

Alicia Chevalier

Applicant(s)

HAMILTON ET AL.

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HAROLD PYON  
SUPERVISORY PATENT EXAMINER

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,576	01/29/2000	Peter W. Hamilton	7995	8660

27752 7590 01/29/2002

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PATENT DIVISION  
IVORYDALE TECHNICAL CENTER - BOX 474  
5299 SPRING GROVE AVENUE  
CINCINNATI, OH 45217

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT

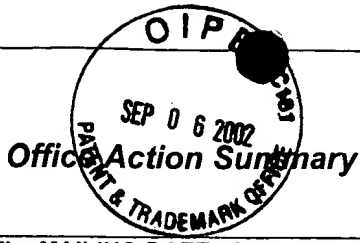
PAPER NUMBER

1772

DATE MAILED: 01/29/2002

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CENTRAL DOCKETING	
Atty/GBU Contact: PDM/EAW	
DATE REC'D	FEB 04 2002
<input type="checkbox"/> FAX	<input checked="" type="checkbox"/> MAIL



Application No. 09/532,576	Applicant(s) HAMILTON ET AL.	
	Examiner Alicia Chevalier	Art Unit 1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-62 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_



## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-57, drawn to an adherent sheet material, classified in class 428, subclass 174.
  - II. Claim 58, drawn to the method of making an adherent sheet material, classified in class 427, subclass 207.1.
  - III. Claims 59-62, drawn to method for using an adherent sheet material, classified in class 150, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group II and Group I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as coextruding all the layers together and then embossing all the layers to impart the protrusions.
3. Inventions Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a

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materially different process such as attaching the material to a surface, such as a wall, and not applying force to collapse the protrusions. Thus, the adherent sheet material is used to add texture to the wall.

4. Inventions Group II and Group II are related as process of making and process of using the product. The use as claimed cannot be practiced with a materially different product. Since the product is distinct from the method of making and the method of using, restriction is proper between said method of making and method of using. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and have acquired a separate status in the art because of their recognized divergent subject matter and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Paul M. Ulrich on January 18, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (703) 305-1139. The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 5:00 p.m. The Examiner can also be reached on alternate Fridays

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Blaine Copenheaver can be reached by dialing (703) 308-1261. The fax phone number for the organization official non-final papers is (703) 872-9310. The fax number for after final papers is (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose phone number is (703) 308-0661.

ac

1/22/02



BLAINE COPENHEAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700